

BELIZE:

DEVELOPMENT FINANCE CORPORATION (AMENDMENT)
BILL, 2022

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BELIZE:

BILL

for

AN ACT to amend the Development Finance Corporation Act, Chapter 279 of the Substantive Laws of Belize, Revised Edition 2020; to widen the scope of the Corporation’s purpose; to provide for a period of limitation; to provide for penalties and punishments for Directors and Officers of the Corporation; and to provide for matters connected therewith or incidental thereto.

(Gazetted2022).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the

**DEVELOPMENT FINANCE CORPORATION (AMENDMENT)
ACT, 2022,**

CAP. 279.

and shall be read and construed as one with the Development Finance Corporation Act, which is hereinafter referred to as the principal Act.

Amendment of section 2.

2. The principal Act is amended in section 2 by–

(a) deleting the following terms and their corresponding definitions–

“Belize Mortgage Company 2002-1 or “BMC””;

“North American Securitization” of “NAS”; and

“North American Securitization Documents”;

(b) inserting the following definition in its proper alphabetical sequence–

“person” means a natural person or a legal person and includes any public body and any body of persons, corporate or unincorporated, and includes the legal representative of a person;”.

Amendment of section 4.

3. Section 4 of the principal Act is amended—

- (a) in sub-section (1), by deleting the chapeau and substituting it with the following—

“(1) The purposes of the Corporation shall be to expand and strengthen the economy of Belize by providing guarantees and funding on an economically and environmentally sustainable basis to those persons seeking financing, including those who would otherwise be unable to obtain funding from other sources on reasonable terms and conditions, by—”;

- (b) in paragraph (b), by deleting the words “that are within the target group of customers to be served by the Corporation”;

- (c) in paragraph (c), by deleting the words “that are within the target group of customers of the Corporation”;

- (d) by repealing paragraph (g) and substituting it with the following—

“(g) supply guarantees, either alone or in association with others, for the development of the country’s economic sector.”

Amendment of section 5.

4. Section 5 of the principal Act is amended—

- (a) in paragraph (b), by inserting immediately after the word “security”, the following words, “, as required by the lender,”;

- (b) in paragraph (i), by deleting the word “and” appearing immediately after the semi-colon;

- (c) by renumbering paragraph (j) as (k); and

- (d) by inserting immediately after paragraph (i), the following new paragraph—

“(j) directly or through subsidiary companies, engage in equity investments from any person conducting business in the economic sector, as a means of facilitating the development of the respective sector, and may subscribe for, dispose of, and otherwise deal in the shares, bonds, and other securities of such companies; and”

Amendment of section 6.

5. The principal Act is amended in section 6(3) by deleting the words “in that behalf”.

Amendment of
section 8.

6. Section 8 of the principal Act is amended—

- (a) in sub-section (1), by deleting the words “in Belize”;
- (b) in sub-section (2)(c)(iii), by deleting the first occurrence of the word “Belize”;
- (c) in sub-section (3)—
 - (i) in paragraph (i), by deleting the word “or” ;
 - (ii) in paragraph (j), by deleting the comma after the word “micro-enterprises” and substituting it with a semi colon;
 - (iii) by inserting immediately after paragraph (j), the following new paragraphs—
 - “(k) environment; or
 - (l) social science,”
- (d) in sub-section (4)(b), by deleting the words “sub-paragraph (iv) or (v) of”;
- (e) in sub-section (12)(b), by deleting the word “ten (10)” and substituting it with the word “six (6)”;
- (f) by inserting immediately after sub-section (17), the following new sub-section—

“(18) In the execution of the business of the Corporation, no Director or Executive Manager participating in the decision-making process of the Board or its subcommittees shall be liable for any loss to the Corporation arising by reason of any improper investment made in good faith save and except for wilful fraud or wrongdoing or recklessness.”

Amendment of
section 9.

7. Section 9 of the principal Act is amended—

- (a) in sub-section (2)—
 - (i) in paragraph (e), by deleting the word “and”;
 - (ii) in paragraph (f), by deleting the full stop and substituting it with a semi-colon;
 - (iii) by inserting immediately after paragraph (f) the following new paragraphs—

“(g) approve annual budgets;

(h) approve business plans;

(i) approve the establishment and closure of branch and sub-branch offices; and

(j) appoint Legal Counsel.”

(b) in sub-section (3), by inserting immediately after the words “Audit Committee” the following words “, Risk Management Committee”;

(c) by inserting immediately after sub-section (2), the following new sub-section–

“(2A) Notwithstanding anything in subsection (2), the Board may establish committees or a committee which may provide more than one function that may be required by sub-section (2), or otherwise. ”

(d) in sub-section (4), by deleting the words “the joint signatures of the Chairperson or one director authorized to act in that behalf, and of the General Manager” and substituting it with the words “a member of the Board of Directors or other person duly authorized by the Board”;

(e) in sub-section (7)–

(i) by deleting the words “this provision”, and substituting it with the words “an approved project plan”; and

(ii) by inserting after the second occurrence of the word “Board”, the words “or any committee or person who is so authorized by the Board”;

(f) in sub-section (8), by deleting the words “effected by resolution” and substituting it with the words “or any committee or person who is so authorized by the Board”; and

(g) in sub-section (13)–

(i) by deleting the words “on a timely basis after conclusion of the annual audit.” and substituting it with the words “within four months of the end of each financial year.”; and

(ii) by inserting the following proviso–

“provided that–

(a) in the event of a natural disaster or pandemic, the Corporation shall have an additional three months to furnish the Minister and Central Bank with the audited financial statements of the Corporation, and

(b) in the event that the additional time contained herein is not sufficient, the Board may make a request in writing to the Minister and the Central Bank, for an extension of time to furnish the audited financial statements of the Corporation to the Minister and the Central Bank of Belize.”

Amendment of section 11.

- 8.** The principal Act is amended in section 11(4) by deleting the words “written resolution” and substituting it with the word “approval”.

Amendment of section 14.

- 9.** Section 14 of the principal Act is amended—

(a) by repealing sub-section (1) and substituting it with the following—

“The Corporation shall establish a General Reserve Fund into which shall be paid a minimum of ten *per cent* of the net profit made by the Corporation during each financial year the Corporation records a net profit until the amount standing to the credit of the General Reserve Fund shall equal the paid up share capital of the Corporation.”

(b) in sub-section (4)—

(i) by deleting the full stop and substituting it with a comma; and

(ii) by inserting the following proviso—

“provided that the Corporation’s loans and investments in related groups or parties may, with proper justification and in special circumstances, exceed 20%, but not more than 25%, of the capital of the Corporation upon the approval of the Central Bank and the Minister.”

Amendment of section 15.

- 10.** The principal Act is amended in section 15 by repealing sub-section (4) and substituting it with the following—

“(4) Any agreement, contract or other instrument effecting any borrowing or loan to the Corporation of or above the equivalent of five million dollars shall only be validly entered into pursuant to a resolution of the National Assembly authorizing the Development Finance Corporation to raise the loan or to borrow the money.”

Insertion of section 15A.

- 11.** The principal Act is amended by inserting immediately after section 15 the following new section—

Establishment of sinking fund. “15A. (1) The Corporation shall establish a sinking fund for the redemption of any security issued by the Corporation.

(2) The Corporation may postpone sinking fund contribution for such period or periods of time as may be approved by the Minister.”

Amendment of section 17.

- 12.** The principal Act is amended in section 17(3) by deleting the words “generally accepted auditing principles” and substituting it with the words “international standards of auditing”.

Amendment of section 19.

- 13.** The principal Act is amended in section 19 by inserting immediately after sub-section (5), the following new sub-section—

“(6) Notwithstanding sub-section (5) above, no director, manager or other employee is liable for disclosure of any matter to any person other than a member of the Board or an authorized officer of the Corporation, or for allowing access to any books, papers or records relating to the Corporation, where such disclosure is required by law or regulation, or pursuant to an Order of a court, administrative agency, or other governmental body with competent authority.”

Amendment of section 20.

- 14.** The principal Act is amended in section 20(3)—

- (a) by deleting the full stop and substituting it with a comma; and
(b) by inserting the following proviso—

“provided that in the event of a natural disaster or pandemic, the Board shall have an additional three months to furnish the Minister with the Annual Report of the Corporation. In the event that the additional time contained herein is not sufficient the Board may make a request, in writing to the Minister, for an extension of time to furnish the Annual Report of the Corporation to the Minister.”

Insertion of new sections.

- 15.** The principal Act is amended by inserting immediately after section 25, the following new sections—

“Punishment and penalties. 26. (1) A breach by a Director or an Officer of the Corporation of the provisions of this Act or any Regulations made pursuant to this Act shall be punishable on summary conviction by a fine not exceeding fifteen thousand dollars and restitution.

(2) Where a Director or Officer of the Corporation causes loss to the Corporation due to fraudulent, willful or negligent breach of any Regulations made under this section, that director or officer of the Corporation is liable to a fine equivalent to the loss suffered by the Corporation or to imprisonment for a term of six (6) months but which may extend up to five (5) years, or to both fine and imprisonment.

(3) No prosecution for an offence under this Act or any Regulations made thereunder, shall be instituted except with the leave of the Department of or the Director of Public Prosecution.

Period of
limitation.

27. (1) Notwithstanding the Limitation Act or the provisions of any other law, no action may be brought by the Corporation for the recovery of money pursuant to a loan agreement, between the Corporation and any person, after the expiration of ten (10) years from the date on which the cause of action accrued or until such time that the indebtedness should have been paid in full and all commitments by the Corporation to extend credit to the Borrower have been terminated.

(2) The power of sale or other disposition and all other rights, powers, privileges and remedies granted to the Corporation hereunder or in any agreement, between the Corporation and any person, shall continue to exist and may be exercised by the Corporation at any time and from time to time irrespective of the fact that the indebtedness or any part thereof may have become barred by any statute of limitations, or that the personal liability of the Borrower may have ceased, unless such liability shall have ceased due to the payment in full of all indebtedness secured hereunder.”